

**GLENDALE CITY COUNCIL – SPECIAL MEETING
WORKSHOP
Renaissance Glendale Hotel
Meeting Rooms A & F 9495 W. Coyotes Boulevard
Glendale, Arizona 85305
November 27, 2007
8:45 a.m.**

PRESENT: Mayor Elaine M. Scruggs, Vice Mayor Manuel D. Martinez, and Councilmembers Joyce V. Clark, Steven E. Frate, David M. Goulet, Yvonne J. Knaack, and H. Phillip Lieberman

ALSO PRESENT: Ed Beasley, City Manager; Pam Kavanaugh, Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk

ABSENT: None

RETREAT:

FACILITATOR: Dr. H. George Frederickson

REMAINING AGENDA ITEMS

2. COUNCIL CODE OF ETHICS

The meeting commenced at 9:15 a.m.

Dr. Frederickson presented the topics for this section of the retreat and that the discussion had begun yesterday:

- Issues of council behavior and conduct
- Roles of elected officials
- Consideration of choices
- How shall we make the rules?
- What shall the rules be?
- How shall the rules be enforced?

Dr. Fredrickson commenced with an overview of Sunnyvale's Code of Conduct for elected officials. He said that they had used a code of conduct instead of a code of ethics. However, after listening to Council's suggestions; he believed that they wanted a Code of Ethics.

Dr. Fredrickson presented the following information:

Council conduct with one another in public meetings:

- use formal titles
- practice civility and decorum in discussions and deliberations
- honor role of chair in maintaining order
- avoid personal comments that could offend
- demonstrate effective problem-solving approaches

Council conduct in private encounters:

- continue respectful behavior in private
- aware of insecurity of email, notes, v-mail
- even private conversations can have a public presence

Dr. Fredrickson suggested these recommendations be adopted and go on Glendale's website.

Vice Mayor Martinez suggested possibly having a website for citizen input on guidelines for a Code of Ethics. Councilmember Goulet stated that he believed difficulties might arise when the Council did not or could not agree with their input. Vice Mayor Martinez commented that he still believed in having citizen input, however, if for some reason the Council did not agree with the input, it was ultimately their decision. Councilmember Clark agreed with Vice Mayor Martinez. Dr. Fredrickson stated that it would be a challenge. He suggested only notifying the citizens of upcoming documents not necessarily pursuing their input.

Councilmember Knaack stated that she disagreed with discussing the process with the public. She stated that as their representative it was their responsibility. Mayor Scruggs suggested obtaining input from the public then deliberating the process and determining if they should change the draft. Councilmember Lieberman commented that he would be in favor of posting the document but not require any input. He added that the average person was not aware of the many components associated with the workings of the Council. Dr. Fredrickson commented that the responsibility of a body of elected representatives was to represent.

Dr. Fredrickson reviewed the code of conduct in public meetings. He noted that everyone would have to agree to honor the chair in charge.

Mayor Scruggs asked for guidance on problem situations that occur in public meetings. She provided an example of when a Councilmember does a call to question and it becomes repetitive. Dr. Fredrickson recommends controlling the problem by time limits and asking for no repetition if it was becoming a problem. Mr. Craig Tindall suggested a second call for questions on the matter. Dr. Frederickson suggested language similar to "to practice civility and decorum and avoid personal comments" included in the document.

Mayor Scruggs discussed possibly having guidelines for tone of voice and body

language. Councilmember Clark stated that she was not aware that they wanted to go as far as including body language. Mayor Scruggs asked Dr. Fredrickson to define decorum. Dr. Fredrickson stated that it was to have suitable, proper, and good taste in behavior. Dr. Fredrickson stated that it was appropriate to look dissatisfied with a vote; therefore, censuring body language would be taking it to an extreme. He noted that everyone was human and there was always a gray line to walk. Councilmember Knaack stated that if one should continue to act inappropriately, the viewing public could lose respect for that individual and Council would become less effective.

Mayor Scruggs discussed a situation in which an individual was disappointed in a vote and made personal comments about members. Dr. Fredrickson noted that one does not attribute personal motives to alter a vote. He added that it was totally unacceptable. He noted that in such cases the Chair would have to take up their responsibility and deal with the issue swiftly and move on to another issue.

Councilmember Clark asked if it was inappropriate to use past history to make a point in a meeting setting. Dr. Fredrickson commented that possibly it would not be inappropriate to use, however, it was past history and possibly not relevant and might be insulting to an individual.

Mayor Scruggs commented that those types of comments were offensive because each Councilmember struggled to make the correct informed decision for the betterment of the city and do not need past history which was not relevant to the situation to add conflict to the present issue. Councilmember Clark stated that her remarks would not be personal comments but would center on the issues and apologized if it offended anyone. She added that if one was passionate in their views, they should not be afraid to express it.

Dr. Fredrickson noted that a disagreement should not inundate a meeting. He added that he was a bit surprised at the level of sensitivity seen here today. He discussed restraint and the ability to not be provoked and to know when to push back and when not to. Councilmember Lieberman recounted an incident when he lost his temper at a newspaper article; however, he was always able to separate his personal opinions when in a meeting.

Dr. Fredrickson commented that there would always be political talk and one should learn not to get offended too quickly and get drawn into a predicament. Councilmember Clark stated that the Council always came together in attending to the big issues. However, smaller debates tend to get personal. She provided an example in which Councilmember Frate was displeased with her.

Councilmember Frate noted that he had been approached by people asking about her conduct. Councilmember Clark noted that most people would side with the person who was championing their issue and attack those who did not. She

asked Councilmember Frate not to worry about what was being said about her. She added that she was still entitled to her opinion even if she lost 99% of the time. Mayor Scruggs stated that she found that comment offensive. Councilmember Clark apologized if it offended anyone; however, it was her belief.

Mayor Scruggs noted that she would like guidance in conducting a meeting with decorum and professionalism. Dr. Fredrickson discussed how people come to be provoked and their passionate arguments. He explained the strengths and weaknesses of the Council. He provided examples on how the Council was stronger together than each one going in the same direction but not as a unit. He noted that they should let go of being provoked and focus on what was important.

Vice Mayor Martinez stated that he had gone back two to three years and recorded the voting record. He found that the same people always voted five to two. Vice Mayor Martinez provided and read from a list of Council votes taken within a year. The list showed that the majority of votes were unanimous, therefore, the Council generally agrees on the best decision for the city. He stated that Councilmember Lieberman had referred to some as “yes” men to the Mayor. He said he found that inappropriate.

Mayor Scruggs asked for clarification on handling a call to question request in a meeting. She requested support from Council on how to handle this situation. Mr. Tindall suggested a vote rather than a mandate. Councilmember Clark commented that she does not remember a call for question in the 12 years she had been in office, however, would like to know of a recourse should it be necessary. Mr. Tindall stated that Council would call for a vote if so determined to override the call for question. He noted that there was no official system at this time. Mayor Scruggs stated that the most recent call for question would have been on a liquor license issue.

Councilmember Knaack stated that she liked the idea that one could call for a question, however, she believes the lengthy discussion should be at a workshop. She noted that she was often frustrated when old business was rehashed at a Council meeting when it had already been discussed at length at a workshop. She added that she still supported the option for members to have an opportunity to make a last statement if they so wished.

Councilmember Lieberman commented on requesting staff to answer questions in a public meeting, so as to keep the public informed. He noted that he often calls for items at a Council meeting for that very reason. He noted that he often received phone calls from the community thanking him for it. Councilmember Knaack stated that she understands Councilmember Lieberman motivation; however, it should be done only on a limited basis so as to keep the meeting moving forward.

The group discussed processes for fair rulings for a call to question. Mayor Scruggs asked for guidance from the group as well as from Dr. Fredrickson.

Councilmember Goulet asked how to get support for a process when there was a lot of negative past baggage between some Councilmembers. He spoke of trust and how it was sometimes very difficult within this group. Dr. Fredrickson talked about trust and respect. He noted that if complete trust was not possible, respect for the position was acceptable. He said that it all went back to the issue of being provoked and knowing how to handle it. He noted that once the provoking party realized it was no longer effective, the provoking might stop.

Councilmember Goulet questioned how any adoption of guidelines would improve attitudes. Dr. Fredrickson discussed how even a 10% improvement was a success and the key was for the group not to bring up negative moments from the past.

Mayor Scruggs called for a break at 10:40 am. and reconvened at 11:05 am.

Vice Mayor Martinez suggested that any code of conduct procedure created today should apply to all boards and commissions.

Dr. Fredrickson presented the following information:

Council Conduct with Staff

- Treat all staff as professionals
- Limit contact to specific city staff
- Do not disrupt staff from their jobs
- Never publicly criticize an individual employee
- Do not get involved in administrative functions
- Check with staff before correspondence
- Do not attend staff meetings unless invited
- Limit requests for staff support
- Do not request political support of any kind from staff

Vice Mayor Martinez requested clarification of the last item “Do not request political support of any kind from staff.” After clarification, Dr. Fredrickson agreed to strike that item.

Mayor Scruggs stated she’d like to understand why her correspondence to departments was reviewed by the City Manager. Also, the review took too much time. Mr. Beasley responded the majority of time the correspondence was returned quickly. According to the Charter, these communications need to go through the City Manager. The City Manager needs to make sure that there are consistent answers. Mayor Scruggs suggested sending them to the Assistant City Manager might accelerate the process. Mr. Beasley didn’t agree but noted in

his absence, Ms. Kavanaugh was available to process the review.

The group discussed the correct and most efficient way of communication between elected officials, management, and staff.

Councilmember Lieberman related a story of a staff member being let go, he believed, because they had a private lunch conversation. Mr. Beasley stated that staff's conduct should be professional and not portray the wrong image while on the job. He noted that there were rules on having private conversations with Councilmembers or city officials. He explained that it could be perceived by others as favoritism and having an agenda. Dr. Fredrickson asked if this luncheon was strictly personal as in two friends having lunch. Councilmember Lieberman stated that no business had been discussed. Ms. Pam Kavanaugh stated that in the city of Glendale, staff worked for the manager not the Council. Dr. Frederickson commented that if one was elected it did not necessarily mean that friendships were severed; however, the perception of impropriety was always an issue.

Councilmember Clark asked the correct way to criticize staff when not totally in agreement. Dr. Fredrickson stated that Council was entitled to question, however, not to consistently criticize staff. He noted that it was not good conduct.

Dr. Fredrickson presented the following information:

Council Conduct with Public in public meetings

- Be welcoming to speakers and treat them with care;
- Be fair in allocating public hearing time;
- Listen actively;
- Ask for clarification;
- Avoid debate and argument;
- No personal attacks (even if being attacked)
- Follow parliamentary procedure;
- Make no promises on behalf of council or staff;
- Make no personal comments about other councilmembers or staff.

Council Conduct in unofficial meetings

- Make no promises on behalf of council or staff;
- Make no personal comments about other councilmembers or staff.

Councilmember Goulet commented that at the end of a City Council meeting there was always an opportunity for citizen comment and asked if it was appropriate not to televise that portion of the meeting. He said that some might just want an opportunity to be on television. Mr. Beasley stated that his

suggestion was to keep televising until the meeting was adjourned. Councilmember Frate suggested keeping their comments to a two minute limit instead of five. Mayor Scruggs stated that the average person did not speak for the entire five minutes and that she often uses her discretion in limiting comments.

Dr. Fredrickson presented the following information:

Council Conduct with Boards and Commissions and other public agencies

- Be clear about representing opinions;
- Remember, boards and commissions serve the community, not individual councilmembers;
- Express clarifications;
- Respect diverse opinions;
- Keep politics away from public functions;
- Inappropriate behavior can lead to removal.

Council Conduct with Media

- Never go “off the record”
- The mayor is the official spokesperson on city positions
- Choose words carefully and cautiously

Councilmember Clark asked what would be the Code of Conduct when an elected official expressed their opinion on a zoning issue to a Commissioner. Dr. Fredrickson stated that it routinely happens, however, one should always be careful of a conflict of interest. Vice Mayor Martinez stated that he personally never supported a zoning issue outside of a public meeting. Dr. Fredrickson commented that he commended Vice Mayor Martinez’ decision; however, it was not unethical to support an issue.

Dr. Fredrickson noted that the City of Glendale’s political appointments process was unusual. He commented that other cities did things differently; however, their unique technique was working superbly.

Mayor Scruggs commented that she had heard that Board and Commission members should not be involved in political elections or campaigning for an individual. Vice Mayor Martinez commented that he believed it should be permitted. Councilmember Lieberman agreed. Dr. Fredrickson read from page 42 of the Sunnyvale Code to help clarify the issue. “Board and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties.”

Mayor Scruggs stated that there were people on waiting lists wanting to serve. Dr. Fredrickson commented that it was extremely impressive that so many citizens in Glendale wanted to serve the community. Councilmember Lieberman

commented that in past elections, Councilmembers had backed Commissioners for Council positions.

The City Council Retreat recessed for lunch at 12:00 p.m. and reconvened at 1:00 p.m.

Dr. Fredrickson continued examining the topic of Boards and Commissions. He asked if there were rules for dismissal. Vice Mayor Martinez stated that he was correct. The issues would be missing meetings, rude conduct, etc.

Councilmember Lieberman stated that the Council recommended appointments, and then Council voted on that appointment.

Dr. Fredrickson presented the following information:

Enforcement and Censures

- Disruptions by members of the public;
- Inappropriate staff conduct;
- Inappropriate council member conduct;
- It all comes down to respect.

Dr. Fredrickson stated that the Code of Ethics and Conduct was thought of as a self enforcing code and would require good wisdom and judgment. Dr. Fredrickson reviewed disruptions by members of the public, inappropriate staff conduct and inappropriate councilmember conduct. He noted that most people did not want to fall into the negative column. He said that it all came down to respecting one another. Dr. Fredrickson advised that when problems occur with the Mayor or Vice Mayor, each would have to give advice and counsel each other to resolve the issue in-house.

Councilmember Clark stated that she disagreed with that policy. She notes that she would like a third party to intervene. Dr. Fredrickson stated that it would be hard to find an adequate third party and they were often only needed for issues of ethical misconduct and corruption. He noted that it was not an issue for this Council. He recommended against it.

Mayor Scruggs discussed the Scottsdale Code of Ethics. She asked if Council would like to implement a process for the Council to have such a Code of Ethics. Councilmembers' Frate and Knaack stated that they would, however questioned how it would be enforced. Dr. Fredrickson suggested enforcement examples. He said that Council could threaten seniority or assignment loss but be able to still keep it in-house. Councilmember Goulet noted that he would like to see a method where the issue was dealt with swiftly and not be drawn out. He added that he needed more information to review as to having a third party assessment.

Dr. Fredrickson reiterated that he would not advise a third party intervention.

Mayor Scruggs stated that there was a process to censure an official. She discussed different procedures. Councilmember Clark stated that she believes censoring on solely behavior was a bit harsh.

The group discussed issues regarding censoring and where it should be applied.

Dr. Fredrickson suggested a public letter of reprimand for a serious conduct infraction. He noted that it had been used in the past. Mayor Scruggs stated that the problem was how to get to the point where you had to make the decision to censure. Mr. Tindall stated that it could be done in an executive session discussion.

Dr. Fredrickson reviewed the following Sunnyvale Code of Ethics guidelines:

- Act in the public interest
- Comply with the law
- Follow Code of Conduct
- Respect processes
- Conduct in public meetings
- Policy positions taken on the merits
- Communication (share substantive info)
- No conflicts of interest
- No gifts and favors
- Respect confidentiality
- No misuse of public property, including time
- Do not represent private interests for personal gain
- Advocate personal positions but do not equate personal positions with city policy
- Follow city charter and stay at the policy level
- Respect independence of boards and commissions
- Support a positive work environment
- Implementation (Code of Ethics is self-enforcing)
- Compliance, Enforcement and Censures

Dr. Fredrickson stated that these guidelines were mainly for what to do more than what not to do.

Councilmember Clark discussed an example in which she did not feel adequately informed by the Mayor on issues of the Host Committee. She noted that the Mayor represented the Council and they should also be kept updated. Mayor Scruggs commented that the meetings were not action driven meetings. She said that the Council was informed on issues; however, the Host Committee had

requested to have some items kept private. Councilmember Clark stated that she would appreciate a general discussion. Mayor Scruggs stated that she would be happy to provide information that could be discussed at future meetings. She apologized for not providing it earlier.

Dr. Fredrickson asked Mr. Beasley if he would be able to provide a Host Committee update for Council. Mr. Beasley stated that it would be possible; however, the information does continue to change. Councilmember Clark noted that she did not want to feel like she was not being informed and felt the Council should be informed.

Mayor Scruggs reiterated that many of the items were quite sensitive and they were not always allowed to discuss them. Dr. Fredrickson commented that he could see how people would like to be kept informed.

Dr. Fredrickson reviewed gifts and favors and asked how Council dealt with the issue. Mr. Tindall stated that there was a state law on what can be accepted. Dr. Fredrickson inquired about receiving personal gifts at Christmas. Councilmember Lieberman stated that he did not believe gift giving was an issue. Mr. Beasley stated that when a gift did come to the offices, it was generally put out to share with all.

Councilmember Clark read from the Scottsdale code which stated that all gifts accepted by an elected official were declared to the City Clerk and maintained as a public record. She was in agreement with that arrangement. Dr. Fredrickson recommended simply stating that the Council follows state procedures when accepting gifts.

Vice Mayor Martinez commented on the previous Boards and Commission discussion and their being subject to the same Code of Ethics. Dr. Fredrickson responded including the Boards and Commission complicates this process and suggested a separate code for them.

Councilmember Clark stated that she expected a Code of Ethics and Conduct. Vice Mayor Martinez referenced the Sunnyvale Code. Dr. Fredrickson said both codes would be included.

Mayor Scruggs noted there should be enforcement provisions. Dr. Fredrickson suggested Council take an oath to uphold the regulations rather than having just a statement. He stated that it was important to demonstrate their commitment and creation of standing by the oath and document. He said a sign pledge was extremely significant.

Mayor Scruggs asked who would provide ethics training for incoming representatives. Dr. Fredrickson stated that a call to appoint competent outside ethics trainers should be made. Mr. Beasley stated that he believed that the

League of Arizona Cities and Towns have provided training on a code of ethics.

Mayor Scruggs commented on city staff taking the oath when they already had their own staff training on code of ethics. Dr. Fredrickson suggested to Mayor Scruggs to possibly have staff train new elected officials with the materials here today. He noted that he believes staff fully capable and competent in doing the job. Councilmember Knaack agreed and stated that she did not have a problem with that. He noted that it would have been helpful to have had when she first started in office.

The Council discussed the ethics training and the possibility of having the City Attorney's Office provide the training.

Dr. Fredrickson went on to discuss the topic of "one community and the strength of weak ties." He explained that the Council was strongest when acting together.

He explained the following information:

- Pride
- A unique sense of place
- Stability and change
- Keen sense of identification
- Time is your friend (3-5% change annually with compound interest)

Dr. Fredrickson commented that the steps being taken today in obtaining a code of ethics would provide the Council a return of 3% in compound interest. He noted that he was very excited about the potential in Glendale.

Dr. Fredrickson noted that he would be back in two to four weeks with a final draft. He asked Mr. Tindall if it would be appropriate for Councilmembers or staff to call him with questions or comments. Mr. Tindall stated his agreement. Mayor Scruggs stated that Vice Mayor Martinez would be his contact.

Dr. Fredrickson asked for any other questions or comments.

Councilmember Knaack commented that at times she felt uneasy when staff was not treated with enough respect and would appreciate it if Councilmembers thought more about treating staff with more respect.

Vice Mayor asked for clarification on what penalties and procedures would be used for violations of the Code of Ethics or Conduct. He wanted to know the process and wanted it in the document. Councilmember Knaack agreed. Dr. Fredrickson advised that any action should not involve a third party but be contained within council. Dr. Fredrickson stated that he would work on that piece of language and bring it back for review. He noted that he would not include a

third party.

Councilmember Clark stated that she would prefer it not be a person that was on the Council making a judgment call. She asked for some sort of impartiality in the decision making.

Mayor Scruggs suggested that the best way to deal with these types of issues was internally within the seven members. Councilmember Clark reiterated her opinion for an outside impartial person. Dr. Fredrickson reiterated his recommendation to keep this out of the legal route and keep it in-house.

Mayor Scruggs commented that most would like an enforcement method for code of conduct; however believe nothing would ever be done. Councilmember Clark noted that it seemed that the code of conduct was more important than the code of ethics to some. Mayor Scruggs disagreed. She proposed possibly having two processes, one for each.

The group discussed the enforcement possibilities.

Mayor Scruggs asked Mr. Tindall to review the legal possibilities and reprimands regarding state law. Mr. Tindall agreed to start work on a draft. The group discussed having something in writing that stated the process for violations of code of conduct. Councilmember Clark renewed her concern as to the protection of individual rights.

The Council all thanked Dr. Fredrickson for his services.

The meeting adjourned at 2:45 p.m.